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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,323	09/29/2000	Paul J. Strande	S122.101.101	1989

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EXAMINER

LEGESSE, NINI F

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 05/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/676,323

Applicant(s)

STRANDE, PAUL J.

Examiner

Nini F. Legesse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2000.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 6-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 6-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

The amendments to claims 1, 6, 9, 21 & 22, the cancellation of claims 3-5 and the addition of claims 23-25 in paper no. 4 are acknowledged.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 23 and 25 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The expression "non-moveable" in claims 23 and 25 is a new matter.

Claims 23 and 25 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter, "non-moveable", which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 23 and 25 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The expression "non-moveable" in claims 23 and 25 is unclear.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 6, 11-13, 15, 16 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trosko (US Patent No. 3,580,584) in view of Anderson (US Patent No. 3,542,369) and Vlach (US Patent No. 3,899,179).

Trosko discloses:

- A straight arm path member (23) defining a straight edge (Fig 1);
- An arcuate-shaped body/club path member (11) defining a curved edge (Fig 1);
- Body path member (11) includes a back swing portion and a follow through portion, with the back swing portion and the follow through portion each have a generally arcuate shape (Fig 1);
- Body path member (11) is configured to visually indicate an incorrect swing path (Fig 1);
- An inner edge of the arm path member and an inner edge of the body path member adjacent the respective leading ends of the arm path member and the

body path member define a first acute angle therebetween having a vertex (Fig 1); and

- The back swing portion and the follow through portion include an indicia formed thereon and having a shape generally matching the curvature of the respective follow through and back swing portions (Fig 1).

Trosko discloses the invention as recited above but fails to reveal the device defining a forward and rearward extension relative to the center, a directional arrow disposed at each of the leading and trailing ends of the arm path member, a directional arrow at the leading end of the body path member with a second arm and body path indicators and a second acute angle formed between the inner edge of the arm and the inner edge of the body path members. Vlach reveals a forward and rearward extension relative to the center with a directional arrow (50) disposed at each of the leading and trailing ends of the arm path member (Fig 1). Anderson discloses a directional arrow at the leading end of the body path member (b), a second arm and body path indicators (refer to Fig 1 and 2), a second acute angle formed between the inner edge of the arm and the inner edge of the body path members (Fig 1) because both the leading and trailing ends of the body and arm path members diverge from each other as seen on Fig. 2. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to include a directional arrow at the leading and trailing ends of the arm and body path members as taught by Vlach and Anderson in the Trosko device in order to provide a directional indicating means for properly aligning the direction of the swing of a golf club.

Claims 7-10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the reference(s) as applied to claims 1-6 above, and further in view of Official Notice.

With respect to claims 7-10, Trosko discloses a golf swing aid wherein the central portion of the arm path member including a target line indicia disposed adjacent the leading end and a back swing indicia disposed adjacent the trailing end (Fig 1). Vlach discloses a back swing indicia (50) generally straight solid line. And Anderson discloses dashed portions for the back swing indicia (a). But, all these references fail to show an elongated hole for receiving a golf tee. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have an elongated hole other than a circular hole (26) as revealed by Vlach or a circular hole for the tee (22) as revealed by Anderson since the examiner takes Official Notice of the equivalence of a round hole and an elongated hole for their use in the golf art as an openings for the placement of a tee would be within the level of ordinary skill in the art, that is they will both work equally well.

With respect to claim 14, Anderson discloses two sets of anchoring holes (18). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include anchoring holes as taught by Anderson in the Trosko device in order to secure the training device to the ground.

Claims 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the reference(s) as applied above to claims 1-16, and further in view of Furbush (US Patent No. 5,350,177).

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All the references cited above fail to reveal a club path indicator. Furbush discloses club path indicators (72-76 including S and also refer to Column 5 lines 3-8). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to include a club path indicator as taught by Furbush in the Trosko device in order to provide a guide that will assist a golfer to properly swing a golf club.

Response to Arguments

Applicant's arguments filed in paper no. 4 have been fully considered but they are not persuasive.

Applicant argues that the device structures disclosed in patent no. 3,580,584 to Trosko, patent no. 3,542,369 to Anderson and patent no. 3,899,179 to Vlach is not monolithically formed. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a monolithically formed or multiple elements attached to each other as taught in the above references, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Applicant argues that "none of cited references include the three distinct components of an arm path member, a body path member, and a down swing club path guide" and applicant also argues that additional components are used in the references provided. However, Trosko discloses an arm path member (23) and both a body path member with a down swing club path guide (11). Vlach discloses an arm path member that

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includes an extended straight edge rearward and forward of the center (50). Anderson also teaches about a golf club path guide (column 2, lines 1-23). Furbush (US Patent No. 5,350,177) also discloses club path indicators (72-76 including S and also refer to column 5, lines 3-8). And with respect to the references including additional structures not required by Applicant's invention, it must be noted that the references combined together disclose the invention as claimed. The fact that they disclose additional structures not claimed is irrelevant.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (703) 605-1233. The examiner can normally be reached on Monday -Friday from 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell, can be reached on (703) 308-2126. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


Paul T. Sewell
Supervisory Patent Examiner
Group 3700